



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,987	11/21/2001	Risto Kivipuro	460-010723-US(PAR)	3443

2512 7590 03/27/2006

PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06824

EXAMINER

CANGIALOSI, SALVATORE A

ART UNIT PAPER NUMBER

3621

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/990,987	KIVIPURO ET AL.	
	Examiner	Art Unit	
	Salvatore Cangialosi	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-14 and 16-44 is/are pending in the application.
- 4a) Of the above claim(s) 26-29, 31 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-14, 16-25, 30, 33-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3621

1. The restriction requirement dated 01/28/2005 was previously made final. Claims to the no-elected invention should be deleted.

2. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

3. Claims 2-14, 16-25, 30 and 33-44 are rejected under 35 U.S.C. 103 as being unpatentable over Kaydyk et al (6209111) in view of either Ginter et al (5892900) or Watanabe et al (6084888).

Regarding claim 35, Kaydyk et al (See Figs. 7 and 11, Col. 1, lines 45-65, Col. 9, lines 50-65,) disclose a method for associating content with a data structure (header) in a wireless communication device substantially as claimed. The differences between the above and the claimed invention is the use of explicit data structure definition. It is noted that the

Art Unit: 3621

claim appears to read on all wireless packets with headers. It is further noted that metadata describes or defines other data and is normally present as a constituent of complex header data. Each of Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) or Watanabe et al (See Fig. 5-7, 11-12 and claims 1-11) show packets with complex headers in a wireless environment including metadata. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Kaydyk et al because packet headers are conventional functional equivalents of the claim limitations. Regarding the data limitations of claim 2, Ginter et al (See Figs 5b, 17, 20, 26-30) or Watanabe et al (See Fig. 5-7, 11-12 and claims 1-11) show packets with complex headers in a wireless environment that are conventional functional equivalents of the claim limitations. Regarding server limitations of claim 3, Kaydyk et al (See elements 12 or 16) disclose web server equivalents that are conventional functional equivalent of the claim limitations. Regarding storage limitations of claim 4, Kaydyk et al (See elements 59 and 61) disclose storage that is conventional functional equivalent of the claim limitations. Regarding the separate storage limitations of claim 5, Kaydyk et al (See Figs. 7 and 11, Col. 1, lines 45-65, Col. 9, lines 50-65,) disclose a method for associating content with a separate data structure (header) in a wireless communication device that are conventional functional equivalents of the claim limitations. Regarding

Art Unit: 3621

definition limitations of claim 6, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that is conventional functional equivalent of the claim limitations. Regarding charge limitations of claim 7, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes usage charge that is conventional functional equivalent of the claim limitations. Regarding protection limitations of claim 8, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes copy protection that is conventional functional equivalent of the claim limitations. Regarding the encryption limitations of claim 9, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes encryption that are conventional functional equivalents of the claim limitations. Regarding content limitations of claim 10, Ginter et al (See Figs 5b, 17, 20, 26-30) show multimedia content definition within a complex packet header that is conventional functional equivalent of the claim limitations. Regarding executable limitations of claim 11, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes executable code that is conventional functional equivalent of the claim limitations. Regarding storage limitations of claim 12, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes storage definition that is

Art Unit: 3621

conventional functional equivalent of the claim limitations. Regarding classification limitations of claim 13 Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes multimedia data classified by type that is conventional functional equivalent of the claim limitations. Regarding information limitations of claim 14, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes new data that is conventional functional equivalent of the claim limitations. Regarding claim 43, Kaydyk et al (See Figs. 7 and 11, Col. 1, lines 45-65, Col. 9, lines 50-65,) disclose a means for associating content with a data structure (header) in a wireless communication device substantially as claimed. The differences between the above and the claimed invention is the use of explicit data structure definition. It is noted that the claim appears to read on all wireless packets with headers. It is further noted that metadata describes or defines other data and is normally present as a constituent of complex header data. Each of Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) or Watanabe et al (See Fig. 5-7, 11-12 and claims 1-11) show packets with complex headers in a wireless environment including metadata. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Kaydyk et al because packet headers are conventional functional equivalents of the claim limitations. Regarding the data

Art Unit: 3621

limitations of claim 16, Ginter et al (See Figs 5b, 17, 20, 26-30) or Watanabe et al (See Fig. 5-7, 11-12 and claims 1-11) show packets with complex headers in a wireless environment that are conventional functional equivalents of the claim limitations.

Regarding server limitations of claim 17, Kaydyk et al (See elements 12 or 16) disclose web server equivalents that are conventional functional equivalent of the claim limitations.

Regarding the separate storage limitations of claim 18, Kaydyk et al (See Figs. 7 and 11, Col. 1, lines 45-65, Col. 9, lines 50-65,) disclose a method for associating content with a separate data structure (header) in a wireless communication device that are conventional functional equivalents of the claim limitations.

Regarding version limitations of claim 19, Ginter et al (See Figs 5b, 17, 20, 26-30) show different content definition within a complex packet header that is conventional functional equivalent of the claim limitations. Regarding definition limitations of claim 20, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that is conventional functional equivalent of the claim limitations. Regarding charge limitations of claim 21, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes usage charge that is conventional functional equivalent of the claim limitations. Regarding protection limitations of claim 22, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes copy

Art Unit: 3621

protection that is conventional functional equivalent of the claim limitations. Regarding the encryption limitations of claim 23, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes encryption that are conventional functional equivalents of the claim limitations. Regarding classification limitations of claim 24 Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes multimedia data classified by type that is conventional functional equivalent of the claim limitations. Regarding searching limitations of claim 25, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes pointers that is conventional functional equivalent of the claim limitations. Regarding claim 30, Kaydyk et al (See Figs. 7 and 11, Col. 1, lines 45-65, Col. 9, lines 50-65,) disclose a method for associating content with a data structure (header) in a wireless communication device substantially as claimed. The differences between the above and the claimed invention is the use of explicit data structure definition. It is noted that the claim appears to read on all wireless packets with headers. It is further noted that metadata describes or defines other data and is normally present as a constituent of complex header data. Each of Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) or Watanabe et al (See Fig. 5-7, 11-12 and claims 1-11) show packets with complex headers in a wireless

Art Unit: 3621

environment including metadata, and charging for encrypted content. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Kaydyk et al because packet headers are conventional functional equivalents of the claim limitations. Regarding claim 33, Kaydyk et al (See Figs. 7 and 11, Col. 1, lines 45-65, Col. 9, lines 50-65,) disclose a method for associating content with a data structure (header) in a wireless communication device substantially as claimed. The differences between the above and the claimed invention is the use of explicit data structure definition. It is noted that the claim appears to read on all wireless packets with headers. It is further noted that metadata describes or defines other data and is normally present as a constituent of complex header data. Each of Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) or Watanabe et al (See Fig. 5-7, 11-12 and claims 1-11) show packets with complex headers in a wireless environment including metadata and storage. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Kaydyk et al because packet headers are conventional functional equivalents of the claim limitations.

Regarding selection limitations of claim 36, Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) show content definition within a complex packet header that includes metadata and multimedia data classified by type that is conventional

Art Unit: 3621

functional equivalent of the claim limitations. Regarding content limitations of claims 37-42, Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) show content definition within a complex packet header that includes metadata, content descriptors, and multimedia data classified by type that is conventional functional equivalent of the claim limitations. Regarding selection limitations of claim 44, Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) show content definition within a complex packet header that includes metadata and multimedia data classified by type that is conventional functional equivalent of the claim limitations.

Examiner's Note: Although Examiner has cited particular columns, line numbers and figures in the references as applied to the claims above for the convenience of the applicant(s), the specified citations are merely representative of the teaching of the prior art that are applied to specific limitations within the individual claim and other passages and figures may apply as well. It is respectfully requested that the applicant(s), in preparing the response, fully consider the items of evidence in their entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Applicants arguments dated 2/27/06 have been considered but are not persuasive. Applicants appear to argue each item of evidence when viewed in a vacuum instead of what they suggest. It

Serial Number: 09/990,987

10

Art Unit: 3621

is noted that it is not necessary that the references suggest, expressly or in so many words, the changes or possible improvements that the applicant has made In re Sheckler 168 USPQ 716. Also the references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In re Bozek 163 USPQ 545 and In Re McLaughlin, 170 USPQ 209.

The applicants still fail to grasp that a complex header including metadata that is included in all packets is a data structure.

Any inquiry concerning this communication should be directed to Salvatore Cangialosi at telephone number **(571) 272-6927**. The examiner can normally be reached 6:30 Am to 5:00 PM, Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached at **(571) 272-6712**.

Any response to this action should be mailed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to (571)273-8300

Hand delivered responses should be brought to

Serial Number: 09/990,987


11

Art Unit: 3621

United States Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 3600 Customer Service Office whose telephone number is (571) 272-3600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SIGNATURE OF THE
PRIMARY EXAMINER
ART UNIT 3621